

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

**ANTHONY ROSIER WILSON,**

Petitioner,

**v.**

**ROBERT NEUSCHMID,**

Respondent.

Case No.: 4:18-cv-06744 YGR

**ORDER DENYING REQUEST FOR  
 CERTIFICATE OF APPEALABILITY**

Re: Dkt. No. 19

On June 20, 2018, petitioner Anthony Rosier Wilson petitioned this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Dkt. No. 2.) On April 3, 2020, the Court granted respondent Robert Neuschmid's motion to dismiss the habeas petition. (Dkt. No. 16.) On May 1, 2020, Wilson filed a notice of appeal with the Ninth Circuit. (Dkt. No. 17.) On May 12, 2020, the Ninth Circuit remanded Wilson's case to this Court for the limited purpose of granting or denying a certificate of appealability. (Dkt. No. 19; *see also* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).)


The Court **DENIES** Wilson's request for a certificate of appealability because Wilson has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The Court granted Neuschmid's motion to dismiss Wilson's habeas petition after careful consideration of the motion, which required consideration of the 2016 declaration from Juwan Veal. The Court concluded that the habeas petition was untimely, procedurally defaulted, and failed to state a claim. The Court further found that the petition does not allege a constitutional error at his trial in the

1 absence of the newly discovered evidence; instead, Wilson's claim was solely alleged on actual  
2 innocence, which he failed to so demonstrate. (Dkt. No. 16 at 10-11.) Nor has Wilson demonstrated  
3 that "reasonable jurists would find the district court's assessment of the constitutional claims  
4 debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Wilson may seek a certificate of  
5 appealability from the Ninth Circuit Court of Appeals.

6 The Clerk shall forward to the Ninth Circuit this case's record, along with this Order.

7 **IT IS SO ORDERED.**

8 Date: May 15, 2020

9   
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT JUDGE